



25 APR 2007

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In re Application of
CLARK *et al*
Application No.: 10/572,975
PCT No.: PCT/GB2004/004054
Int. Filing Date: 23 September 2004
Priority Date: 23 September 2003
Attorney Docket No.: 9052-241
For: EXECRETABLE REPORTER
SYSTEMS

DECISION

This is a decision on the declaration filed in the international application pursuant to PCT Rule 4.17(iv) which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 22 March 2006, applicants filed papers to enter the national stage of PCT/GB2004/004054 which was accompanied by, *inter alia*, a copy of a declaration submitted pursuant to PCT Rule 4.17(iv) for a deceased inventor.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed pursuant to PCT Rule 4.17(iv) in the international application is signed by four of the five named inventors and Helen Elizabeth Clark as "successor in title" to the inventor, Anthony John Clark who is deceased. However, this declaration is not acceptable for several reasons.

First, it is not clear whether Ms. Clark is acting as the heir, legal representative or in some other capacity. A "successor in title" has very broad definitions. If Ms. Clark is acting as the sole heir, a statement attesting that there are no other heirs with interest in the subject application is required. Second, the declaration identifies the citizenship, residence, and last mailing address of Ms. Clark as required by 37 CFR 1.497(b)(2). However, there is no information on the deceased inventor. 37 CFR 1.497(a)(3)

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requires that the citizenship of each inventor (including any deceased inventor) must be listed on the declaration.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.


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